



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

**3 Elvira Rodriguez (Estate)****Case No. 05CEPR00988****Executor Murillo, Joel M. (Attorney/Executor)****Attorney Murphy, Christine M. (Deputy Attorney General – Objector)****Motion to Termination Further Proceedings and Discharge of Personal Representative**

<b>DOD: 04/15/05</b>		<b>JOEL MURILLO</b> was appointed Executor with Full IAEA without bond and Letters issued on 02/22/2006.  <b>Petitioner states:</b> in the petition for probate filed 08/26/2005, movant alleged that the value of the assets of decedent subject to probate administration was \$155,000.00. This allegations was based on the best evidence available that decedent died possessed of the real estate at 10651 Fantz, Del Rey, California (the said real estate), which was subject to administration. On June 25, 2014, a final Inventory and Appraisal was filed in this estate reflecting that property. However, the property described above is not now or was it on June 25, 2014, property that is subject to administration. The reason is that on 06/09/2014, in Fresno Superior Court case 14CEPR00329, the court Ordered on the Petition to Determine Succession to Real Property pursuant to Probate Code § 13151 that the said real estate passed to Angelita Garcia. Thus, the said real estate is no longer an asset of this estate, rendering moot the Inventory and Appraisal filed on 06/25/2014.  Movant diligently searched for all assets of decedent but failed to discover any property of any kind belonging to the estate that is subject to administration.  All costs, expenses, and premiums on surety bonds, incurred in the administration of the estate have been paid.  A request for special notice was filed by the California Department of Health Services and notice of the time and place of hearing on this motion was given as required by law.  <b>Wherefore, movant prays:</b>  1. For an order terminating further proceedings for the administration of the estate. 2. For an order to discharge the personal representative of the estate. 3. For such other orders as the court may deem proper.  <u><b>Please see additional page</b></u>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Minute Order of 07/30/2015:</b> Mr. Murillo reports that he received a proposed settlement agreement from the Department of Health Services; requests 90 days.  <b>Note: Petition filed Amended Notice of Motion to Terminate Further Proceedings and Discharge of Personal Representative was filed on 08/06/2015, requesting that the court issue orders pursuant to Probate §§ 12250 and 12251 to terminate further proceedings and discharge the personal representative as there are no assets for distribution in the estate, however no one has been noticed.</b>  <b>The following issues still remain:</b>  1. Need Notice of Hearing on mandatory Judicial Council form.  2. Need Notice of Hearing with proof of service to be served on all interested parties.  3. Need Notice to the Department of Health Care Services pursuant to the Request for Special Notice filed 07/03/2006.
<b>Cont. from 070215, 073015</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b> x		
<input type="checkbox"/>	<b>Aff.Mail</b> x		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input checked="" type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

**Opposition to Motion to Terminate Further Proceedings and Discharge of Personal Representative filed 06/24/2015 by Christine M. Murphy, Deputy Attorney General**, states on May 27, 2015, the personal representative of decedent Elvira Rodriguez, Joel Murillo, filed a "Motion to Termination (sic) Further Proceedings and Discharge of Personal Representative". While the Department of Health Care Services (Department) was served with the motion, counsel for the Department was not and did not receive a copy of the motion until mid-June. Department opposes the granting of Motion on the grounds that the Judgment and Judgment Lien against petitioner Joel Murillo, as personal representative, has not been satisfied.

Department obtained a judgment against Joel Murillo, as representative of the Estate of Elvira Rodriguez, on August 9, 2009 in *Shewry v. Murrillo*, Fresno Superior Court Case No. 08CECG03103DRF. Attached here to as Exhibit A is a copy of the Notice of Entry of Judgment and Judgment in that case. Subsequently, a Judgment Lien was recorded against the estate property of decedent at 10651 E. Fantz Ave. Del Rey, California, 93616 (Estate Property). Attached hereto as Exhibit B is a copy of the Judgment lien. The lien remains on the estate property and has not been satisfied by the petitioner.

After the filing of the judgment lien, Joel Murillo initiated another action to probate the estate property of the decedent Elvira Rodriguez. (Matter of Elvira Rodriguez, Fresno Superior Court, Case No. 14CEPR00329.) In the later action, the Court issued an order dated 06/09/2014, determining that the estate property of Elvira Rodriguez succeed to the beneficiary of the Will, Angelita Garcia.

Department opposes the granting of the present motion on the grounds that the judgment against petitioner Joel Murillo, as personal representative in the above-entitled matter, and the judgment lien, have not been satisfied. Thus, any order of discharge would not be appropriate without satisfaction of the judgment and lien.

Further, denial of the motion to discharge Joel Murillo, as personal representative, will preserve the Department's claim and avoid further litigation. Department is concerned that because of the multiple proceedings probating the estate property there may be a later challenge by Angelita Garcia to the legitimacy of the Department's lien against the Estate Property. The Department wants to avoid the need for a Court action pursuant to Welfare and Institutions Code section 14009.5 against Angelita Garcia as a recipient of estate property or an action for payment from the personal representative. Thus, the Department respectfully requests that the Court deny the motion seeking to terminate further proceedings and to discharge Joel Murillo as personal representative until the judgment is satisfied by either settlement involving the beneficiary of the Estate Property, recognition of the lien by Angelita Garcia, or payment of the Department's claim.

Also, the parties are presently in settlement discussions regarding the satisfaction of the Department's Judgment and lien. Department, thus, requests that the Court continue this motion to allow for the entry of a settlement agreement addressing the issues raised by the outstanding judgment and requests a continuance until at least August 14, 2015 for the drafting of said settlement agreement.

For the foregoing reasons, Department respectfully requests the Court deny the motion or, in the alternative, continue the motion to allow for the entry of settlement agreement.

## Status Hearing Re: Informal accounting of closing reserve

<b>DOD: 8/28/11</b>	The Second and Final Account of Co-Executors <b>SUSAN J. QUINN</b> and <b>RHONDA WALLACE</b> was settled on 11/20/14.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	At the hearing on 11/20/14, the Court set this status hearing for informal accounting of the \$25,000.99 closing reserve pursuant to recent court practices.	<p><u>Minute Order 5/20/15</u>: Counsel represents that they are waiting to hear from the IRS regarding a tax issue; requests 6 months.</p> <p>1. Need informal accounting of the \$25,000.99 closing reserve. If filed prior to the hearing pursuant to Local Rule 7.5, the status hearing may be taken off calendar.</p> <p>Note: Filing of the informal accounting of closing reserve will not generate a new hearing date.</p>
<b>Cont. from 052015</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 11/5/15
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 5 - Quinn</b>

Atty Kruthers, Heather (for Public Administrator – Petitioner)  
 Atty Roberts, Gregory J. (for Joseph Balagno – Beneficiary - Objector)  
 Atty Armo, Lance E. (for Linda Balagno and Lori Brown – Beneficiaries)  
 Atty Gromis, David Paul (for Nicholas Kovacevich – Former Trustee)  
 Atty Johnson, Summer (for Mary Pond – Respondent)

First and Final Account and Report of Successor Trustee; Petition for Allowance of Compensation to Successor Trustee and her Attorney; and for Distribution

		<b>FRESNO COUNTY PUBLIC ADMINISTRATOR,</b> Successor Trustee, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Minute Order 10/8/15:</u> Counsel represent that they have reached an agreement except as to the personal property and are still working towards resolution on that issue; request additional time to do so. Continued to 11/12/15.  <u>Note:</u> On 7/28/15, the Court granted preliminary distribution of \$50,000.00 to each of the four beneficiaries.  <u>Note:</u> Joseph Balagno's objection was filed 9/22/15. See Page 2.  <u>The following issues remain:</u>  1. Need receipts for the preliminary distribution from Linda Sue Balagno, Lori Jo Brown, Joseph Dale Balagno, and Mary Pond.  2. Given the preliminary distribution, need recalculation of final distribution and revised order.
		<b>Account period: 10/15/13 – 5/27/15</b> Accounting: \$560,600.75 Beginning POH: \$516,776.66 Ending POH: \$503,035.65 (\$464,108.72 cash plus personal property)	
<b>Cont. from 072815, 090115, 100815</b>		<b>Successor Trustee (Statutory): \$14,129.06</b>	
<input type="checkbox"/>	Aff.Sub.Wit.	<b>Successor Trustee (Extraordinary): \$248.00</b> (preparation, filing tax returns)	
<input checked="" type="checkbox"/>	Verified	<b>Bond fee: \$2,102.27</b>	
<input type="checkbox"/>	Inventory	<b>Costs: \$141.50</b> (to pay to Fresno Superior Court for certified copies)	
<input type="checkbox"/>	PTC	<b>Reserve: \$400.00</b> (for payment of any tax preparation after date of this account)	
<input type="checkbox"/>	Not.Cred.	<b>Reserve: \$25,000.00</b> (pursuant to settlement agreement, for fees that may be awarded to the former trustee and his attorney)	
<input checked="" type="checkbox"/>	Notice of Hrg	<b>Petitioner states the children and longtime girlfriend of Dale W. Balagno entered into a settlement agreement regarding distribution of assets as follows:</b>	
<input checked="" type="checkbox"/>	Aff.Mail	<b>Linda Sue Balagno:</b> \$101,880.95 cash plus Bersa handgun, 2005 Ford Mustang, 1965 Chevy Pickup, and 1985 Harley Davidson	
<input type="checkbox"/>	Aff.Pub.	<b>Lori Jo Brown:</b> \$101,880.96 cash plus Colt pistol, Smith & Wesson handgun, 2002 Harley Davidson	
<input type="checkbox"/>	Sp.Ntc.	<b>Joseph Dale Balagno:</b> \$101,880.96 cash plus Beretta handgun, Smith & Wesson handgun, .80 round of ammunition, .25 rounds of ammunition, Yellow ring with stones, Peugeot watch, Harley Davidson watch, Geneva watch, 2005 Harley Davidson	
<input type="checkbox"/>	Pers.Serv.	<b>Mary Pond:</b> \$101,880.96 cash	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

## Page 2

**Objection to Proposed Distribution of Personal Property filed 9/22/15 by Joseph Balagno states** he did not sign the settlement agreement. He agrees with all terms with the exception of the distribution of the personal property. In addition to the items being distributed to him, Joseph Dale Balagno should receive the following items that his father wanted him to have:

- 1965 Chevy Pickup
- 1986 Harley Davidson Sportster
- 1985 Harley Davidson
- Helmet, gloves, jacket
- 1/3 of the unclaimed property with the State Controller.

Joseph Dale Balagno has been told that he cannot receive the guns. If he cannot receive the guns, they should be distributed to his mother, Sarah Roberts, so they can ultimately be distributed to his children when they are old enough.

**Declaration of Attorney Lance Armo filed 9/29/15 (Attorney for beneficiaries Linda Balagno and Lori Brown) states** he has reviewed the objection with his clients. In light of said objection, his clients no longer agree to any further distribution of funds or personal items until and unless Joseph Balagno and his clients agree in writing to the distribution pursuant to the settlement agreement.

Further, his clients hereby request that the 1965 pickup located in the garage of Joseph Balagno's residence be turned over to the Public Administrator for the pendency of this matter.

Mr. Armo will not be present on 10/8/15 as he will be attending the State Bar Annual Meeting and Convention.

Probate Status Hearing Re: Filing of First Account and Petition for Final Distribution

DOD: 9/28/11		ESTELLA GARZA GARZA, RAQUEL GARZA NANEZ, and ROJELIA GARZA GONZALEZ were appointed as Co-Executors on 5/27/14 with Limited IAEA without bond. Letters issued 10/3/14.	NEEDS/PROBLEMS/ COMMENTS:
Cont. from 072115, 091315		At the hearing on 5/27/14, the Court set this status hearing for the filing of the first account or petition for final distribution.	<b>OFF CALENDAR</b>
Aff.Sub.Wit.			
Verified		Note re history: The following events have occurred in this estate:  I&A Partial No. 1 filed 9/5/14 includes various real property with a total value of \$250,000.00. <i>Note: This I&amp;A is defective. #5 (Property Tax Certificate) is checked "not applicable," however, that is not the case, because this I&amp;A consists of real property.</i>	First and Final Account filed 11/6/15 is set for hearing on 1/11/16.
Inventory			
PTC		Final I&A filed 8/11/15 reflects additional real property valued at \$210,000.00.	
Not.Cred.			
Notice of Hrg		On 1/28/15, the Court confirmed the sale of one of the properties and ordered the proceeds placed into a blocked account. Receipt was filed 3/3/15.	
Aff.Mail			
Aff.Pub.		On 6/19/15, the Co-Executors filed an Ex Parte Petition for Withdrawal of Funds from Blocked Account that requested distribution of the funds in the blocked account to the beneficiaries. The petition was denied, as no order for distribution has been entered.	
Sp.Ntc.			
Pers.Serv.		On 7/8/15, the Co-Executors filed a Petition for Preliminary Distribution that is set for hearing on 8/13/15.	
Conf. Screen			
Letters		Status Report filed 7/16/15 (with notice of hearing to all heirs) states the estate is not in a condition to be closed at this time. Responses from the Franchise Tax Board and the Victim's Compensation and Government Claims Board are pending. The Final Inventory and Appraisal should be completed within 30 days. The Co-Executors have filed a Petition for Preliminary Distribution that is set for hearing on 8/13/15. An additional 60-90 days is requested to continue administration and to file a final account and petition for final distribution.	
Duties/Supp			
Objections		Reviewed by: skc	Reviewed on: 11/5/15
Video Receipt			
CI Report		Updates: 11/6/15	Recommendation:
9202			
Order		File 7 - Garza	
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

## Status Hearing Re: Filing of the First Account

DOD: 9/3/15	MARIA DE LOS ANGELES RODRIGUEZ, Step-Granddaughter, was appointed Conservator of the Person and Estate on 7/2/14.
Aff.Sub.Wit.	
Verified	
Inventory	
PTC	
Not.Cred.	
Notice of Hrg	
Aff.Mail	
Aff.Pub.	
Sp.Ntc.	
Pers.Serv.	
Conf. Screen	
Letters	
Duties/Supp	
Objections	
Video Receipt	
CI Report	
9202	
Order	
Aff. Posting	
Status Rpt	
UCCJEA	
Citation	
FTB Notice	
	At the hearing on 7/2/14, the Court set this status hearing of the filing of the first account.  <u>Note:</u> I&A filed 12/1/14 included cash held in a blocked account, personal property, and real property in Monterey County, CA.  On 1/29/15, the court confirmed the sale of the real property and the proceeds were deposited to the blocked account.  <u>Note:</u> Notice of Death of Conservatee filed 10/6/15 states the Conservatee passed away on 9/3/15.
NEEDS/PROBLEMS/COMMENTS:  1. Need first and final account pursuant to Probate Code §2620 or written status report pursuant to Local Rule 7.5.	
Reviewed by: skc	
Reviewed on: 11/5/15	
Updates:	
Recommendation:	
File 8 – Arevalo	



Attorney: Heather H. Kruthers (for Petitioner/Public Guardian)

Attorney: Deborah Boyett (Court appointed for Conservatee)

Attorney: Jeffrey A. Jaech (for Objector Diane Varao)

## Petition for Appointment of Probate Conservator

		Public Guardian appointed Conservator of the estate on 10/1/15.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Court Investigator Advised Rights on 9/11/15.  Voting Rights Affected need Minute Order.  <b>Continued from 10/1/15. Minute order states</b> parties agree to the appointment of the Public Guardian as to the estate, and the Court so orders. Additionally, the Court orders the Public Guardian appointed as temporary Conservator, without prejudice, as to the person. Ms. Boyett requests 30 days for additional investigation.  1. Need Order (the previously submitted order was used when the Court granted the conservatorship of the estate.)  <u><b>Note:</b></u> Conservatorship of the Estate was granted on 10/1/15, therefore a status hearing will be set as follows:  • <b>Wednesday, December 7, 2016</b> at 9:00 a.m. in Department 303, for the filing of the first account.  Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
		Temporary of the Person Expires on 11/12/15.	
Cont. from 100115			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.		
	Screen		
✓	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
✓	Citation		
	FTB Notice		
			<b>Reviewed by:</b> KT <b>Reviewed on:</b> 11/6/15 <b>Updates:</b> <b>Recommendation:</b> <b>File 18 – Madrigal</b>